

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHRISTIAN LANCASTER,

Defendant.

CASE NO. 16-cr-00313-YGR-1

**ORDER GRANTING DEFENDANT'S REQUEST
TO CONTINUE THE CURRENT TERMS AND
CONDITIONS OF RELEASE PURSUANT TO 18
U.S.C. SECTIONS 3143, 3145(c)**

Re: Dkt. No. 40

On July 27, 2017, defendant Christian Lancaster entered an open plea to the charge of possession of child pornography, and the Court proceeded directly to sentencing. On July 19, 2017, defendant filed a motion, currently pending before the Court, asking the Court to continue the current terms and conditions of his release in the event that the Court did not grant his request for a time-served sentence. (Dkt. No. 40 at 1.) Specifically, defendant requests that the Court allow him to remain free on bond so that he may self-surrender to serve the sentence imposed on the date of its execution. (*Id.*)

Having carefully reviewed defendant's request, and as indicated orally on the record, the Court finds that defendant is not likely to flee or pose a danger and that exceptional circumstances exist here to justify his request. Thus, for the reasons set forth more fully below, the Court **GRANTS** defendant's request to remain free on bond until execution of his sentence.

I. LEGAL FRAMEWORK

Pursuant to 18 U.S.C. section 1343, a person who has been found guilty of a crime of violence, including a child pornography possession offense, *see* 18 U.S.C. section 3156(a)(4)(C), must be detained pending the execution of their sentence. Section 1343 provides specific grounds upon which a court may release a person from detention pending their sentence or their appeal. Because defendant here is not seeking an appeal, the applicable exception falls under Section 1343(a)(2), which allows release from detention under the following conditions:

1 (A)(i) the judicial officer finds there is a substantial likelihood that a motion for
acquittal or new trial will be granted; or

2 (ii) an attorney for the Government has recommended that no sentence of
3 imprisonment be imposed on the person; and

4 (B) the judicial officer finds by clear and convincing evidence that the person is
not likely to flee or pose a danger to any other person or the community.

5 Relevant to the instant action, 18 U.S.C. section 3145(c) creates a further exception to the
6 mandatory detention provisions of Section 3143. Section 3145(c) provides thus: “A person
7 subject to detention pursuant to section 3143(a)(2) or (b)(2), and who meets the conditions of
8 release set forth in section 3143(a)(1) or (b)(1), may be ordered released, under appropriate
9 conditions, by the judicial officer, if it is clearly shown that there are exceptional reasons why such
10 person’s detention would not be appropriate.” 18 U.S.C. § 3145(c); *see also United States v.*
11 *Garcia*, 340 F.3d 1013, 1015 n.2 (9th Cir. 2013). Subsections (a)(1) and (b)(1)(A), in turn, both
12 require that the Court find by “clear and convincing evidence” that the defendant “is not likely to
13 flee or pose a danger to the safety of any other person or the community if released.” 18 U.S.C.
14 3143(a)(1), (b)(1)(A).

15 **II. DISCUSSION**

16 The crime for which defendant has been convicted places him within the scope of
17 mandatory detention as defined in 18 U.S.C. section 1343. In light of that, the Court’s inquiry is
18 thus: whether (i) clear and convincing evidence exists demonstrating that defendant is not likely
19 to flee or pose a danger to the safety of any other person or the community if released and (ii)
20 exceptional circumstances exist to justify his continued release pending the execution of his
21 sentence.

22 First, the record demonstrates that defendant is not likely to flee or pose a danger to any
23 person or the community. Defendant has been under federal pretrial supervision for one year, and
24 was on pretrial release in state court for seven months prior. In sum, defendant has been under
25 pretrial supervision for nineteen months and has complied with all of the conditions of his release.
26 Pretrial services reported that “Mr. Lancaster is doing very well on supervision, commutes a long
27 way each week to attend counseling, and spends a lot of time caring for his young son.” (Pretrial
28 Sentencing Report ¶ 3 (further noting that “of all the child pornography defendants [his

1 supervising officer] monitors, the defendant is the supervisee who stands out as performing very
2 well on pretrial release”).) In addition to the counseling required of him, defendant has sought
3 additional support to address the unresolved abuse he experienced as a child. Defendant's entire
4 file in this matter establishes by clear and convincing evidence that defendant poses no flight risk
5 or a danger to society, and no compelling evidence exists to the contrary.

6 Second, the Court also finds that exceptional reasons exist here to grant defendant's
7 request. “By adopting the term ‘exceptional reasons,’ and nothing more, Congress placed broad
8 discretion in the district court to consider all the particular circumstances of the case before it and
9 draw upon its broad ‘experience with the mainsprings of human conduct.’” *Garcia*, 340 F.3d at
10 1018 (quoting *Mozes v. Mozes*, 239 F.3d 1067, 1073 (9th Cir. 2001)). The Ninth Circuit has
11 recognized several non-exhaustive factors a district court may consider, including its assessment
12 of the defendant as a violent person, the nature of the crime itself, hardships the defendant may
13 suffer, and the defendant's degree of cooperation with the government. *Id.* at 1018–22 (further
14 explaining that these factors “alone or in combination with others may qualify under the statute”).

15 Here, myriad reasons sufficiently demonstrate for the Court that exceptional reasons exist
16 to allow defendant to remain free on bond pending the execution of his appeal. For one, despite
17 his conviction for possession of child pornography, defendant has never committed an actual
18 physical act of violence on any person, nor has he had, or attempted, sexual contact with a child.
19 *See, e.g., United States v. Reboux*, No. 06-CR-451-FJS, 2007 WL 4409801, at * (N.D.N.Y. Dec.
20 14, 2007) (allowing defendant convicted of child pornography offense to be released pending
21 sentencing noting that while offense is labeled as a ‘crime of violence’ for sentencing purposes,
22 defendant's “conduct was not violent”). As noted, defendant is currently receiving ongoing
23 medical and psychological treatment for the own abuse he suffered as a child, and compelling
24 reasons exists to allow defendant to continue these treatments rather than placing an abrupt and
25 immediate end to the same. Finally, defendant's family circumstances warrant his release pending
26 the execution of his sentence. Defendant has a young son, for whom he provides care, and he
27 assists his wife with childcare and household chores. A brief reprieve will allow defendant the
28 necessary transitional period to arrange for alternative care for his family. *See, e.g., United States v.*

1 *Kaquatosh*, 252 F. Supp. 2d 775, 778 (E.D. Wisc. Mar. 14, 2003) (“There is no reason why family
2 circumstances cannot provide a factual basis for release pending sentencing.”).

3 Thus, the Court finds that defendant satisfies the statutory requirements for releasing him
4 on bond pending execution of his sentence. Accordingly, the Court **GRANTS** defendant’s request,
5 as set forth herein.


6 **III. CONCLUSION**

7 For the foregoing reasons, the Court **GRANTS** defendant’s request to continue the current
8 terms of his conditions of release as set forth in the order issued on his sentencing date.

9 This Order terminates Docket Number 40.

10 **IT IS SO ORDERED.**

11
12 Dated: August 1, 2017



YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE